

## **ATTACHMENT #8**

### **KINSHIP CARE PROGRAM QUESTIONS AND ANSWERS**

Attachment #8 is Volume 1 of Kinship Care questions and answers. This volume includes most of the questions raised individually and as part of the Kinship Care Round Tables which were held regionally in February and March.

**These questions and answers should be read carefully and thoroughly. Many policy issues regarding this program are incorporated into these answers.**

As needs dictate, we will issue subsequent volumes. Each new volume will be cumulative; that is, each new volume will include the questions and answers from previous volumes. The new information -- whether new questions or modifications or clarifications of previous questions -- will be typed in italic in order to facilitate identification of the new material.

We welcome your additional questions as you begin implementing this program. In order to provide some order on the process of submitting questions and obtaining responses, we request that you forward your questions to the Assistant Area Administrator in the appropriate regional office.

# **KINSHIP CARE: QUESTIONS AND ANSWERS VOLUME I**

## **I. General**

### **1. What is Kinship Care?**

Kinship Care is the care of minor children by a relative for which the relative receives a payment from a public child welfare agency. Kinship Care will replace the current Aid to Families with Dependent Children Non-Legally Responsible Relative program (AFDC/NLRR). Kinship Care was created under s.48.57(3m), Stats., as enabling legislation for the Wisconsin Works (W-2) program, which is the replacement program for AFDC.

Under AFDC/NLRR requirements, a relative caretaker applied with the county social/human services or tribal economic support agency for AFDC/NLRR for the children. This process changes under Kinship Care. Kinship Care relatives will apply at the child welfare agency for an assessment and approval for a Kinship Care payment. As a part of the assessment, there will be a criminal record check on adults living in the home with or working for the relative caretaker. The child welfare agency will complete the background check through the Wisconsin Department of Justice and, in some cases, the Federal Bureau of Investigation.

### **2. When will the Kinship Care Program become effective?**

Child welfare agencies may begin the Kinship Care program effective January 1, 1997 if the economic support and child welfare agencies agree. This applies to both new cases and current NLRR cases.

Effective April 1, 1997, all new cases of relative caretakers applying for assistance must be under the Kinship Care Program. Also effective April 1, all existing AFDC/NLRR cases must begin to be transitioned to Kinship Care at the next regularly scheduled six-month review. However, if the assessment process cannot be completed in a timely fashion, existing cases may be continued as AFDC/NLRR for a period of up to 3 months after the six-month review.

**3. Can a person who is providing Kinship Care also be eligible for W-2?**

Yes. The provision of Kinship Care is irrelevant to a participant's eligibility for W-2 benefits. Since the Kinship Care grant is issued for the needs of the relative child, who is not a part of the W-2 assistance group, the Kinship Care grant is not included as income in determining W-2 eligibility.

**4. If a family is part of the W-2 program and the family takes in a minor relative, does it become Kinship Care or does it stay as W-2 work group?**

The parents and legal minor children make up the W-2 assistance group which may be eligible for W-2 employment services. The relative caretaker is eligible for a Kinship Care grant for the needs of the Kinship Care child. The age and needs of the child may affect the W-2 participation assignment. The fact that the family is now caring for a minor relative and receiving a payment for Kinship Care is relevant to participation in the W-2 program.

**5. Will there be a uniform application form for Kinship Care?**

Yes, but it is a model form and is not mandatory. The application form (CFS-2023, "Application for Kinship Care Payment") is Attachment #3 to the DCFS Numbered Memo to which this is also attached. This will also be available through the Department's forms and publications unit. As noted above, the form will not be mandatory so agencies may certainly design their own forms but the information contained on the state form must be included on any locally-developed form. Agencies may wish to add information to their own form but they may not add eligibility criteria which are not included in the statutory language.

**6. What is the definition of a relative? Some Native American tribes consider second and third cousins as immediate family. How are these situations to be treated under Kinship Care?**

Under Kinship Care, a relative is defined as "a stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great-great, whether by consanguinity (i.e., blood), direct affinity (i.e., marriage) or legal adoption, or the spouse of any person named above, even if the marriage is terminated by death or divorce."

For Indian children, the definition of relative is the same as "extended family member" which is defined by the law or custom of the Indian child's tribe or, if there is no such law or custom, means an adult who is the Indian child's

grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

- 7. Can schools change their policies regarding accepting children of relatives who live in the district?**

If a child is residing with a relative, the responsibility of the school is the same as if the child were living permanently in the home. The school cannot refuse to accept the child on the basis of the Kinship Care relationship.

- 8. How does Kinship Care relate to Indian Child Welfare? Some tribes don't do foster care but they do have responsibility for economic support. Who is supposed to administer Kinship Care -- the tribal economic support staff or the foster care staff in the county?**

There is no direct relationship between Kinship Care and Indian Child Welfare. In general, however, Kinship Care is considered a program to assist child welfare in that having a relative care for a child may be in the best interests of the child and may prevent the child from entering the formal child welfare system and being placed in foster care. Under the Kinship Care guidelines, the child welfare agency is responsible for implementing Kinship Care. If the child welfare agency wished to subcontract some of the program responsibilities to the economic support agency, that would be allowable.

Under the legislative language which created the Kinship Care Program, tribes are authorized to provide Kinship Care, but are certainly not required to assume that responsibility. If the tribe elects not to administer the program, then the county social/human services department would assume the responsibility.

- 9. How is the decision being made in each county/tribe area as to which agency gets the money?**

As noted above, the statutory language allows tribes to elect to administer the program on the reservation. If the tribe elects to do so, the tribe will receive a prorated amount of the money allocated for all children served in the county(ies). If the tribe elects not to administer the program, the money will be given to the county social/human services department. However, even if a tribe elects to administer the program, the foster care portion of the Kinship Care allocation will be provided to the county agency so that the foster care placement can be funded directly by the county or by the county through any existing 161 Agreement.

- 10. Are the questions and answers that were sent out a while ago still accurate?**

Any information distributed prior to the joint Administrators' Memo dated January 6, 1997 may or may not still be accurate. Because of this, the joint Administrators' Memo and any subsequent information should be considered the accurate information. As additional questions are raised or policies change, counties and tribes will be notified by DCFS Information or Numbered Memos.

- 11. If problems of a CHIPS or JIPS nature arise in the relative caretaker's home and the parents reside in one county and the child and the relative reside in another county, which county would deal with the problems that arose?**

Absent any agreement to the contrary between the two counties, the county in which the child is residing with the relative would be the responsible county. In effect, the existence of a payment under Kinship Care is inconsequential. The case would be handled as is current practice if the child is residing with a relative and there was no AFDC/NLRR or Kinship Care payment.

- 12. What if the relative wants to be licensed as a foster home? Would they then receive a foster care payment for the child instead of the Kinship Care payment?**

No. If the relative requests a foster home license, the county must conduct a licensing study. If the requirements of Ch. HSS 56, Adm. Code, are met, the relative would be granted a foster home license. However, if the "placement" was made by the family and not by the agency or the court, the county would not be required to make a foster home payment. In all of the information regarding Kinship Care, we have been clear in this regard by referring to these situations as "living arrangements" rather than "placements" for this specific reason.

- 13. What if a court in County A orders that a child reside in a relative's home in County B but that relative's home has never been checked out?**

As discussed elsewhere in this document, if the court in County A orders the placement in County B, then County A, absent any agreement between the counties, would be responsible for assessing the relative's home for payment approval. If the Kinship Care requirements are not met, a Kinship Care payment cannot be made. At that point, the situation becomes the same as we have now when a court orders a placement and orders the county to license the home as a foster home but the foster home licensing requirements are not met. Whatever the county does in those situations would apply here as well.

- 14. Are records and files generated on relatives and children and their families confidential? What section of the statutes relates to this confidentiality?**

Generally, social service records regarding children are controlled by s.48.78, Stats. That is not true in the case of Kinship Care because that section applies to individuals who are in the "care or legal custody" of the department. Children in Kinship Care are neither.

As such, records for Kinship Care are covered under s.49.83, Stats., which reads as follows:

**49.83 Limitation on giving information.** Except as provided under s.49.32(9) and (10), no person may use or disclose information concerning applicants and recipients of relief funded by a relief block grant, aid to families with dependent children, Wisconsin works under ss.49.141 to 49.161, social services or supplemental payments under s.49.77, for any purpose not connected with the administration of the programs. Any person violating this subsection may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail not less than 10 days nor more than one year or both.

- 15. If CPS records are a part of the file on the relative, how does this affect the confidentiality of the file?**

Any information obtained from other sources of information which are controlled by statutory confidentiality protections remain covered by those protections. In this case, then, the information obtained from an abuse or neglect report would be covered by s.48.981(7).

- 16. What if information from the criminal background check on one party (spouse or employee) prohibits the payment? What should we or can we tell the applicant relative caretaker?**

While the statutory language regarding confidentiality of records under this program is somewhat restrictive, it is clear that the information may be shared with the applicant relative caretaker.

- 17. If a child is over age 18 but under 19 and is in school, can a payment be made (like in foster care)?**

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No. The definition of child which applies to Kinship Care is that in s.48.02( ) rather than the definition in Ch. 49. The definition of a child in Ch. 48 is an individual under the age of 18.

- 18. Can we require notification from the relative prior to the child returning home so that we can decide if we want to do a risk assessment?**

This information may be required by the agency but it is important to keep in mind that there should be some legitimate reason for conducting a "risk assessment." If there are no reasonable grounds to suspect that the child's safety may be at risk, it would be inappropriate to invade the family's privacy.

- 19. What was the philosophy behind changing the current NLRR program? Was there a problem?**

The Kinship Care Program was developed as part of the W-2 (welfare reform) legislation. The primary philosophy involved was that a participant would need to be engaged in some form of work in order to receive a grant. However, because Kinship Care, like the AFDC/NLRR program it replaced, is a child-only grant, it was decided that work would not be required on the part of the relative. Instead, eligibility criteria were established for the program.

From a public policy perspective, this makes sense. For example, if I placed my daughter with my sister for some reason, it would be no one's business but mine, my sister's and my daughter's. If, however, my sister wanted taxpayer dollars to support that placement, then there should be some public policy reason for that payment. As such, the eligibility criteria for this program were developed.

- 20. Can the child welfare agency create its own policy to monitor the child and his or her continuing welfare?**

Within the limits of the Kinship Care program, a child welfare agency can develop local policies for monitoring the living arrangement and the welfare of the child. It is important to keep in mind, however, that the typical Kinship Care living arrangement is not a child welfare case. It is a living arrangement agreed upon between family members which the child welfare system has been asked to support financially. Absent any grounds for child welfare intervention, the child welfare agency may have no reason or authority to intervene beyond the authority granted under this program.

- 21. Can the relative keep a child in the home without receiving a payment?**

Of course. It is perfectly legal for a parent to place a child with a relative. No license is required and no involvement of the child welfare agency is warranted.

- 22. Is the step-parent relationship severed by divorce? Would this be an illegal placement?**

This is an interesting question because the definition of a relative is different under the Kinship Care program than it is under child welfare. If a child is living with a step-parent and a Kinship Care payment is being made, there is no problem. If the Kinship Care payment is not being made or the payment was being made and has been stopped, then it is an illegal placement and the situation should be referred to the child welfare agency.

- 23. Is there going to be a separate HSRS module for children in Kinship Care?**

No. The only reporting required under the Kinship Care program is fiscal reporting on various CARS lines.

- 24. Who is the staff person in DCFS to contact about Kinship Care?**

Mary Conroy, the Out-of-Home Care Specialist with the Bureau of Programs and Policies will be the program specialist. Paul Minkus, with the DCFS Administrator's Office, will be the fiscal specialist. However, all questions about the Kinship Care program, both programmatic and fiscal, should be addressed to the regional Assistant Area Administrator.

- 25. Will there be tracking of the effect of W-2 and its relationship to the Kinship Care Program?**

The State Department of Health and Family Services will not be monitoring this. A number of counties have expressed an interest in this and may be developing a plan for such monitoring.

- 26. Will the economic support agency receive a listing of who is approved for Kinship Care?**

No. There is no reason for this. The only reason the economic support agency needs to know if someone is involved in the Kinship Care program is if that person applies to the economic support agency for some type of assistance (e.g., food stamps, Medical Assistance, child support).

- 27. Under Kinship Care, will child welfare agencies push for relative placement?**

Kinship Care is intended to provide financial support for a living arrangement established between family members. In some instances, these living arrangements will be court ordered. At the same time, recent legislative changes have established a preference for relative placements when a child must



be placed outside of the home. As such, relative placements for children should be considered because it is in the best interests of children and is required under Ch. 48 and federal law, not because of the funding available under the Kinship Care Program.

- 28. Who is notifying current NLRR relatives of the reduction of the monthly payment? Is it appealable?**

The CARES system is notifying current NLRR recipients of the end of that program and the initiation of the Kinship Care Program. This reduction in the monthly payment is not appealable because it is a result of a change in federal and state law.

- 29. Is there any residency or citizenship requirement?**

The only limitations on the Kinship Care program are that the relative must live in Wisconsin and no payment can be made to an individual who is an illegal alien.

- 30. If information in the criminal background check eliminates eligibility for Kinship Care, and there are no real CPS issues and the child remains in the relative's home without financial support, are we ready to place these children in foster care?**

Given the question as stated, there is no reason to place the child in foster care or other out-of-home care setting. For example, if the relative did not "pass" the criminal background check because of an offense not directly related to caring for children and the offense occurred many years ago, the Kinship Care payment cannot be made but the child is not at risk. If, however, the criminal background check is not "passed" because of an offense which does affect the safety of the child, then it may become a child welfare case. In such an instance, the child welfare agency needs to take action to assure the safety of the child. This may involve returning the child home, placing the child with another relative or placing the child in out-of-home care.

- 31. Is there any chance for present NLRR cases to be grandfathered or grandmothered in or do all relatives have to go through the Kinship Care process?**

No. The legislation creating this program does not allow for any such pre-existing living arrangements.

32. **Will the state likely have an interest in tighter regulation of this program in the coming years?**

At this time, there is no intent to impose tighter regulations. In fact, we would like to make this program as flexible as possible so we plan to loosen up the funding restrictions in 1998.

33. **Will we have to enter information on these cases on the HSRS Core module (i.e., Standard Programs 942 and 943)?**

No. Keep in mind that these are not child welfare cases and "services" are not provided.

34. **Are there any programmatic or fiscal statistics that counties and tribes should keep for the state?**

Other than the fiscal reporting requirements, there are no requirements to report to the state.

35. **If the tribe is administering the program, is the tribe responsible for all individuals living on the reservation or just for tribal members living on the reservation?**

The tribe is responsible for all individuals living on the reservation.

36. **What is the definition of a "completed" application?**

A completed application consists of all of the information necessary for the agency to make the approval decision. For example, the results of the criminal background check must be obtained in order to have a completed application. In the specific case of the criminal background check, however, the agency may make a provisional payment pending the results.

37. **What agencies will be administering the Kinship Care program?**

If a tribe wishes to administer the program, it will be permitted to do so. Otherwise, the county department of social or human services will be the administering agency. In Milwaukee, the Milwaukee County Department of Human Services will be responsible for all new cases in 1997 and for transitioning existing court-ordered cases in 1997. Beginning January 1, 1998, the Department of Health and Family Services will have sole responsibility for the program in Milwaukee County as part of the Department's assumption of child welfare in that county.

## **II. Fiscal/Financial**

### **1. What is the payment amount for Kinship Care?**

The payment, if the living arrangement is approved by the child welfare agency, is \$215 per month per child.

### **2. What happens if a child runs away from a Kinship Care relative's home? What happens if the relative does not notify the agency when the child leaves? Is there a basis for fraud recovery?**

On the model application form, the Kinship Care relative attests that he or she will notify the agency within 3 days after the child runs away. Continuation of the payment may be handled in the same manner in which the county or tribe currently handles foster care payments in such circumstances, but this is a local agency decision. (Generally, this means that payments can continue to be made for a certain amount of time -- usually 14 or more days --unless or until it is determined that they child, when found, will not return to the foster home or, in this case, the relative's home.)

### **3. What are the asset and income eligibility levels for Kinship Care eligibility? Do we look only at the child's income and assets?**

Current Kinship Care language does not provide for a financial test for Kinship Care eligibility. Proposed statutory language includes the denial of Kinship Care benefits for children receiving SSI payments and consideration of children's unearned income when determining Kinship Care. The child's earned income and assets are exempt from Kinship Care eligibility determination.

The income and assets of the parents or caretaking relative are not taken into consideration for Kinship Care eligibility. The income and assets of the parents are not taken into consideration in determining the Kinship Care eligibility. The parents will be referred to the child support agency and any child support collected will be used to offset the cost of the Kinship Care payment.

### **4. How will the funds be distributed to agencies?**

The funds for conducting the assessments and making the monthly payments will be allocated to agencies using AFDC/NLRR caseload data for the past three years (1994-96). The funds will be distributed to counties via an addendum to the State/County Contract. Funds will be distributed to tribes through an addendum to the State/Tribe Contract.

5. **Will checks be issued to the relative care provider as an advance or as a reimbursement (i.e., are the checks to be issued at the beginning or end of the month)?**

This will be an agency decision. For cases converting from NLRR to Kinship Care, the agency should be aware that NLRR payments are made at the beginning of the month. As such, if the agency decides to make Kinship Care payments at the end of the month, the relative would face one month with no payment. It may be advisable, then, for the agency to consider at least a partial payment to tide the relative over until the transition is complete.

6. **If an agency converts an existing AFDC/NLRR case to Kinship Care or starts a new one in the middle of the month, does the Kinship Care payment start in the middle of the month?**

It can. The agency may make the payment effective the beginning of that month or the date of approval. If the latter, then the agency may prorate the payment based on the date.

7. **Does the agency make the payments or will the CARES System cut the checks?**

The child welfare agency, or a subcontracted agency, will make the payments.

8. **If a relative receives NLRR through CARES, will those payments be charged against the agency's Kinship Care allocation?**

No. NLRR is a totally separate funding program and is sum-sufficient (through December 31, 1997).

9. **What is the estimated cost of an assessment?**

There is no such estimation. Each county or tribal agency is free to establish its own cost for the assessment.

10. **If Wisconsin says no more entitlements, why isn't there a financial eligibility for Kinship Care?**

While it is true that that Kinship Care is not an entitlement, there are nonfinancial eligibility criteria which must be met.

11. **Is IV-E eligibility still a consideration?**

Title IV-E eligibility is only a consideration when a child is placed from Kinship Care into out-of-home care and the agency wishes to use the Foster

Care allocation that is part of the Kinship Care program. This allocation can only be used if the child is IV-E eligible. If the child is not IV-E eligible, then the agency would have to pay for the placement out of its Community Aids allocation. In the case of a tribe, if the child is not IV-E eligible, then the cost of care would be paid through the County/Tribal 161 Agreement.

**12. Who will handle complaints of possible fraud?**

This will be handled on a local basis (i.e., there are no state policies). How an agency currently handles fraud cases in other programs would apply to Kinship Care as well.

**13. Do allocations allow for ongoing administrative costs (e.g., processing payments, issuing checks, annual review and reassessment)?**

The agency assessment allocation can be used for these purposes as long as the agency relates the cost to the assessment/funding process.

**14. Does the allocation allow for possible increases in Kinship Care living due to the impact of W-2?**

The allocations are based on the average number of NLRR cases in the period 1994-96. If there are significant shifts after two or three years in the numbers of cases and there is overall county and tribal support, the Department may be willing to look at more recent data and make funding shifts or reallocations.

**15. In counties where a tribe is located and the tribe is choosing to administer Kinship Care, do they also do their own payroll to issue checks?**

If the tribe elects to administer Kinship Care, the tribe will be responsible for all aspects of the program for individuals living on the reservation.

**16. Is the Kinship Care allocation sum sufficient?**

No. The allocation is sum certain.

**17. How does the extra money for foster care get allocated?**

The foster care funds that are part of the Kinship Care program were allocated using the same formula that was utilized in allocating all of the Kinship Care funds.

- 18. Will allocations be adjusted year to year as the numbers change in counties?**

There is no plan for such a reallocation, but please refer to the response to Question #14 of this section.

- 19. Is Kinship Care considered an entitlement, therefore payment is retroactive to date of application or does payment begin after the assessment is completed and Kinship grant is approved?**

This is a local decision. Either is acceptable.

- 20. Will the income of the child, such as social security or child support, be deducted from the Kinship Care payment and go directly to the family or will it come to the agency?**

If the child is receiving SSI, then that payment will go directly to the family and no Kinship Care payment will be made. Any other financial assistance (e.g., social security, child support) will come to the agency and be considered a refund, so the agency will make the \$215 monthly Kinship Care payment.

- 21. During the time period from the economic support referral of existing NLRR cases to child welfare to the point that economic support is advised by child welfare that a Kinship Care payment has been approved, is the grant on CARES at the \$248 amount or does the relative now get a reduced Kinship Care payment?**

This should be discussed locally because it depends on when in the month the decision is made and, therefore, when the CARES system can be changed. In any case, the process should be coordinated so that the relative is assured of getting a payment but the relative does not get both an NLRR payment and a Kinship Care payment in any month.

- 22. For existing NLRR cases that do not result in approval of a Kinship Care payment and the child remains in the relative's home, when does the AFDC/NLRR eligibility end?**

If a Kinship Care payment is not approved, the child welfare agency should notify economic support immediately. The economic support agency should then make the appropriate changes to CARES.

- 23. Will AFDC/NLRR payments made in the period between referral to the child welfare agency and approval by the child welfare agency for Kinship Care payments be charged back to the child welfare agency against the Kinship Care allocation?**

No. The Kinship Care allocation is used only after the change is made to Kinship Care. Until that time, AFDC/NLRR payments will be made on CARES and will not be charged against the Kinship Care allocation.

- 24. Given that Kinship Care allocations are sum certain, can there be waiting lists? Are there any guidelines for establishing such waiting lists?**

Waiting lists are allowable and there are no guidelines for their establishment. It is always advisable, however, for agencies to be consistent in these matters. If your agency currently uses waiting lists for other programs, there should be the greatest consistency possible in establishing waiting lists for this program.

- 25. How long can a provisional payment be made? Are there any time limits?**

A provisional payment may be made until 30 days after the agency receives the completed application. In other words, the agency has 30 days after receiving the results of the criminal background check to make a final decision (assuming that the only information needed for the completed application is the result of the criminal background check).

- 26. How do we charge for the assessment? Can we use an average cost or do we have to charge the actual cost for each assessment?**

The agency has to be able to document the charge for the assessment. Once a number of assessments have been done, the agency can document what the average cost of an assessment is and can then charge on that basis.

- 27. How many days do we have after the date of application to issue a check?**

As stated previously, the agency has 30 days to make a decision after the agency receives a completed application. Once the decision is made to approve the payment, either provisionally or finally, the check-cutting process should begin immediately. The normal time limit in the agency for processing the approval should be followed.

- 28. Can unspent funds be carried over to the next calendar year?**

No. All unspent funds lapse back to the state.

29. **Are there any provisions for covering the administrative costs associated with this program?**

Most administrative funds can be documented to be part of the assessment process (e.g., staff time, paperwork). As such, the assessment allocation serves as the administrative fund.

30. **If a tribe elects to administer the Kinship Care program, will they receive all four allocations? What about the foster care payment allocation?**

If the tribe elects to administer the program, the tribe will receive the first three allocations. The fourth allocation, for children who come into the out-of-home care system, will be provided to the county. At the point of entry into the out-of-home care system, the payment will be handled as would any other out-of-home care case (i.e., paid by the county directly or through the 161 Agreement).

31. **Does the foster care allocation apply to relative foster care or regular foster care -- or both?**

Both.

32. **How does the state determine, from year to year, what each agency's allocation will be?**

The allocations were based on each agency's average NLRR caseload for the period 1994-96. In the future, with the overall support of the counties and tribes, the Department may be willing to reexamine the allocation process using multi-year Kinship Care data. If there are significant differences between NLRR caseloads and Kinship Care caseloads, and with significant county and tribal support, the Department may be willing to make reallocations based on that data.

### **III. Medical Assistance**

1. **Can a Kinship Care relative request Medical Assistance for a child without getting the Kinship Care payment?**

Yes. Caretaker relatives who are denied Kinship Care (e.g., they do not pass the criminal background check) or who do not wish to apply for a Kinship Care payment may apply for Medical Assistance for the child. The economic support agency must continue to determine Medical Assistance eligibility for children residing with a caretaker relative using current financial and non-



financial criteria. If the NLRR caretaker is requesting only Medical Assistance benefits for the child, there is no need to contact the child welfare agency.

**2. Are children in Kinship Care categorically eligible for Medical Assistance?**

No. A recent change created by the federal welfare reform legislation leaves only children in out-of-home care as categorically eligible for MA. Kinship Care is not out-of-home care as defined by federal and state law.

**3. Who determines whether the child should receive MA or whether the parent(s) should provide health insurance?**

An application for Medical Assistance should be made on the behalf of the child. Health insurance coverage does not prohibit Medical Assistance eligibility. However, when other health insurance coverage exists, Medical Assistance is always the payer of last resort. The child support agency will pursue and enforce health insurance coverage for children as part of the child support referral required for Kinship Care eligibility.

**4. When the relative applies for MA for the child, will they be applying in the child's name?**

Yes.

**5. Is MA available for the child if the parent does not "initiate or continue" health insurance?**

Yes. There is no intent for the child to suffer because of the noncompliance of the parent.

**IV. Assessment Process**

**1. Who approves the living situation under the Kinship Care program?**

The approval process is through the local child welfare agency.

**2. If a relative applies for a payment under the Kinship Care program and the child's parent(s) live in another county, which agency would be responsible for the payment and the approval process?**

We are not prescribing any particular process. Local agencies are free to negotiate programmatic and fiscal responsibility in such cases. We do make the following recommendation: If the living situation is **not** court-ordered, the county in which the child resides with the relative is responsible for the

approval of the living situation, the Kinship Care payment, the MA certification and any other services needed. If the living situation is court-ordered, the county of the court (or the tribe if it is a tribal court) ordering the living arrangement is responsible for the approval of the living arrangement, the Kinship Care payment, and the MA certification. Any of these responsibilities or other services can be assumed by any county or tribe involved in the situation by mutual agreement.

3. **If a relative providing Kinship Care for a child in one county moves with the child to another county, does the second county just continue making the payments (i.e., give full faith and credit to the first county's or tribes decision) or must the second county or tribe conduct another assessment?**

This is a local agency decision. They may give full faith and credit to the approval by the other agency or they may wish to reassess all such cases. Whatever is decided by the agency on this issue should be put into a written policy and applied uniformly.

4. **Must there be a redetermination or reapproval of the living situation?**

Yes. The program requirements for Kinship Care must be redetermined no less frequently than every 12 months.

5. **How long will the child welfare agency have following application for Kinship Care before the first Kinship Care payment would have to be made?**

The agency must make the first Kinship Care payment within 30 days after receipt of the completed application.

6. **What happens if the Kinship Care placement is not approved? Does the agency have any additional responsibility?**

If the payment is not approved because one or more of the eligibility criteria are not met, the agency may discuss options with the relative, the child's parent and the child. Regardless of what option the family selects, if there is any indication that the child may not be safe, the agency should follow existing policy regarding referrals for child protective services assessments. There is not any difference in policy simply because the agency became aware of the family through the Kinship Care Program.

7. **What if the child's parent is incarcerated or lives out of state? How can we assess the situation to determine if the child needs to be with the relative, whether living with the relative is in the best interests of the child or whether the child meets or might meet the CHIPS or JIPS requirements?**

Best professional judgment should be used. If the child is living with the relative with the consent of the parent and the parent is not available or is unwilling to have the child return home, it can probably be determined that the placement with the relative is necessary and is in the best interests of the child.

8. **Do we need to get verification directly from the parents that they approve of the living arrangement?**

This will be a local decision. The requirement is that you determine that the parent is aware of and supports the living arrangement. The local agency's level of comfort is the key in determining how that is determined.

9. **Who does the 12-month review and of what does it consist?**

The child welfare agency is responsible for conducting the initial assessment and each 12-month review but that agency may contract with another agency to conduct the assessment. The review consists of determining whether there continues to be a need for the child to stay with the relative, whether the placement continues to be in the best interests of the child, whether the child continues to meet the criteria under s.48.13 or 938.13 or might in the future if the child returned home and whether the other eligibility requirements continue to be met. The need for criminal background checks is discretionary, but the relative should be required to complete the CFS-64 form at each review.

In essence, the original approval criteria are reexamined no less frequently than every 12 months.

10. **Is there a uniform assessment/approval form?**

We have developed a form for this purpose and we encourage its use because it lays out the decision-making process in a logical manner. It will not, however, be a mandated form. It is included as Attachment #4 to this DCFS Numbered Memo. The form will also be available through the Department's forms and publications unit.

- 11. One of the eligibility requirements is that the relative cooperate with the agency, including applying for other financial assistance programs for which the relative caretaker may be eligible. What does this mean?**

The intent is that the relative apply for other financial assistance programs for which the **child** might be eligible but under which the relative would be the payee. For example, if the child might be eligible for SSI, the relative must apply for SSI. The legislation is **not** intended to mean, for example, that if the relative caretaker might be eligible for low income energy assistance that the relative must apply for benefits under that program.

- 12. Will we need to report information to child welfare (CPS) if received from the relative?**

If information is received which indicates that the child is being or has been abused or that there has been a threat of abuse or neglect and the abuse or neglect is likely to occur, then a child welfare referral should be made. In other words, information from a relative should be considered the same as such information from any source.

- 13. Are we assessing the birth parent's home based on the relative's description?**

Each agency should decide for itself how the assessment information is to be collected. There are no state requirements in this area. If the information gathered from the relative seems accurate and reasonable, that could suffice. On the other hand, if the agency wishes to enact a policy requiring home visits or contact with the parent, that is allowable as well. The key is for each county or tribe to establish its own written policies and to apply those policies uniformly.

- 14. If the custodial parent approves the placement and the noncustodial parent does not, can we approve the placement?**

This would seem reasonable, but we encourage each agency to consult with legal counsel and establish a policy on how these situations will be handled.

- 15. Do we need to do home visits to evaluate the Kinship Care relative, to check out the safety of the home and to assure that there is enough room?**

Home visits are not required by statute or state policy. Each agency should decide the process for approval. Keep in mind that most of these placements are made by the family, not by the agency, and there are no "licensing" standards as there are, for example, in foster care. As a result, "enough room"

and related concerns are not issues unless conditions exist which would place the child's safety at risk.

- 16. Do we require the Kinship relative to acquire a signed statement from the parent relative to the approval?**

Again, there are no statutory or state policies related to this. Each agency is free to establish its own written policies.

- 17. What is the level of proof required to deny a payment (e.g., parent says child is not living with them, agency says child is)?**

Each agency should determine its own "level of comfort" in this area. If there is an indication that the parent is not in agreement with the living arrangement, this should be investigated further.

- 18. Must a contact with the parent be in person or can it be by telephone?**

Local policy will dictate the level of contact required.

- 19. How should the contact be documented?**

There are no statutory or state policy requirements. It is advisable that documentation be kept on all contacts, regardless of the type of the contact.

- 20. What qualifications are necessary for assessors?**

There are no statutory or state policy requirements related to this. Each agency is free to establish its own requirements.

- 21. Do we check out AODA/Mental Health regarding the relative caretaker?**

Within the context of determining the need for the placement and the best interests of the child, these problems/needs may certainly be considered.

- 22. Will the assessor have to verify the relationship of the relative to the child for whom they are requesting a payment? Will we have to verify birthdate, Social Security Number and identity?**

Again, the issue is one for local decision-making. If there is some indication that information is false or questionable, additional checking may be required. You will need the Social Security Number for the child (for child support purposes) and the date of birth of the relative (for criminal background purposes).

23. **Can a negative CPS background, rather than just arrests and convictions, be cause for denial of a payment?**

Certainly. If this is the case, the payment would be denied on the need or best interest eligibility criteria rather than the criminal background criterion.

24. **What if the agency actually “arranges” the living arrangement and the parent goes along with it (i.e., doesn’t “disagree”)? Is this OK?**

If the parent is aware of and approves the placement, then it would probably be acceptable, assuming all other eligibility requirements were met. It should be kept in mind, however, that the purpose of this program is to provide financial assistance for living arrangements made among family members. The greater the involvement of the child welfare agency, the greater that agency’s liability.

25. **If the agency’s policy is that there must be a home visit to the relative’s home in order to approve a payment and the relative refuses, can the payment be denied?**

Yes. The relative is required to cooperate with the agency in the approval process. If the agency’s written policies regarding Kinship Care require a home visit, then the payment can be denied if the relative refuses.

26. **If there are two relative caretakers in the home, do both of them have to sign the application form?**

Yes. There is space on the model application form for two signatures. Should there be more than two, it is advised that the additional relative caretakers also sign the form.

27. **What if the child is living with a grandparent and the parent sporadically lives there as well? Can we approve the payment?**

This is a local agency judgment call. Certainly if the parent is residing with the relative caretaker and the child, the Kinship Care payment must be denied. If, however, the parent sporadically resides in the same home with the relative caretaker and the child but does not really function in a full-time parental capacity, the agency can either approve or deny the payment based on written local policies.

28. **Does the agency have the right to review the situation more frequently than every 12 months?**

Yes. The statutory requirement is that the living arrangement be reviewed no less frequently than every 12 months.

**V. Child Support**

- 1. Will there be a fee charged to the child welfare agency by the child support agency for the referral of the child's parent(s)?**

No. This will be handled in the same way that cases of Title IV-E eligible foster children are handled.

- 2. Will child support payments be assigned or received directly by the relative?**

Child support payments will be assigned and regarded as a refund by the local agency.

- 3. How long do we have to refer the family to the child support agency?**

There is no specific requirement in this area but it is presumed that the referral would occur at the time of application.

- 4. If a child support payment exceeds \$215 per month and it is being paid on a regular basis, can the agency deny the payment if the child support is paid directly to the relative caretaker?**

No. The only financial support received by a child which negates the need to issue the monthly Kinship Care check is SSI.

- 5. For a case transitioning from NLRR to Kinship Care, does there need to be another referral to child support since one would have been made at the time the NLRR application was made?**

Yes, there must be another referral to the child support agency.

**VI. Food Stamps**

- 1. Can the Kinship Care relative be eligible for food stamps?**

The Kinship Care relative may apply for food stamps with the economic support agency. The income and assets of the food stamp group (i.e., all individuals residing and eating together in the same household) will be considered in the food stamp financial determination. The Kinship Care grant will be counted as unearned income for the food stamp benefit.

## **VII. Child Care Assistance**

- 1. If the Kinship Care relative requires child care for the child, can this child care be arranged?**

The Kinship Care relative can apply for Child Care Assistance with the economic support agency. Eligibility for Child Care Assistance would be based on the income and assets of the Kinship Care relative. The income eligibility limit is 165% of the Federal Poverty Level.

- 2. Will Kinship Care relatives be required to pay a co-pay for child care?**

Yes.

## **VIII. Criminal Background Check**

- 1. For what criminal offenses would Kinship Care payments be denied?**

This information is contained in s.48.57(3p), Stats., which is Attachment #1 to this DCFS Numbered Memo. The requirements are also discussed in Attachment #5 to this DCFS Numbered Memo.

- 2. Is a release of information form required for the criminal background checks?**

Yes. The Department of Justice requires a consent form. By statute, criminal background checks under the Kinship Care program must be done using Form CFS-64, the background character verification form. The CFS-64 form should be used to complete the DJ-LE 250 or 250a form. The CFS-64 form is then kept in the file and the appropriate DJ form is submitted to the Department of Justice for the background record check.

- 3. The Kinship Care legislation allows an agency to assess a fee for the reasonable cost of conducting the criminal background check. Will this fee be set by the state?**

No. The legislation allows, but does not require, agencies to assess a fee for conducting the criminal background check. The fee may not exceed the reasonable cost of conducting the investigation. Within those parameters, agencies are free to establish their own fee amount.

- 4. Under the criminal background check requirements, an employee of the relative is subject to the same background check as the relative. Who is considered to be an employee of the relative (e.g., baby-sitter who takes care of the children 3 days a week an employee)?**



We are attempting to obtain clarification of this. In the meantime, local judgment should be used. Keep in mind that there are two parts to this requirement: that the person is an employee of the relative caregiver and that the person has regular contact with the child. For the meantime, "regular contact" is a local determination.

5. **What if there is a minor offender (i.e., delinquent) in the household? Does that affect approval of the payment?**

It may, but not in the context of the criminal background check. Such information should be considered in reviewing the need for the placement and the best interests of the child.

6. **Is there a place on the application where information on minors (e.g., delinquents) is disclosed?**

Not specifically, but see the response to Question #5, immediately above.

7. **In terms of the criminal background check, is an "arrest" or a "conviction" required to eliminate eligibility?**

An arrest is not considered in the context of the criminal background check, but any such information should be used in assessing the need for the placement and the best interests of the child.

8. **Is a notarized signature on releases of information for all adult residents of the home required for a criminal background check?**

As stated previously, Form DCS-64 must be used and that form does require notarization. The Department of Justice forms do not require notarization.

9. **Can we provide the provisional approval if we do not get signed releases from all of the adults?**

If the signed releases are not obtained because an adult refused to provide the release, then a payment cannot be made. If the release is not obtained because the adult cannot be immediately contacted, then a provisional payment can be made.

10. **What if someone has a conviction that would prohibit the placement, but they have been granted a pardon?**

The pardon is irrelevant for the purposes of this program. The intent of the criminal background check is to protect the health, safety and welfare of the

child to the extent possible. A pardon does not mean that an offense did not occur.

- 11. If there are five adults living in the household, can you charge the background check fee to each of them?**

Yes. The agency can assess a reasonable fee to cover all its expenses related to criminal background checks.

- 12. We are concerned that information from the Department of Justice won't be thorough and our local law enforcement agencies won't give us access to information in their systems. What is our liability if we don't get accurate or thorough information on the background check?**

The agency is required to contact the Department of Justice. In most cases, it is also advisable to request information from local law enforcement agencies. If the agency has reason to suspect that an FBI check is warranted, that should also be done. If a law enforcement agency does not cooperate with the background check, the agency can at least document that it made reasonable efforts. It is also worthwhile in this regard to speak with your corporation counsel or other legal counsel for possible referral to the judge.

- 13. Can we just go through local law enforcement rather than the Department of Justice?**

No. The statutory requirement is quite specific that the Department of Justice must be used in all cases and, in those cases where the relative, other adult or employee is a non-resident of this state or was a non-resident at any point in the last 5 years, the Department of Justice must be provided with fingerprints for forwarding to the FBI.

- 14. Does the agency have to do a criminal background check as a part of the annual review process?**

The agency must determine at the annual review that the eligibility requirements are met. The specific use of a criminal background check in this process, however, is discretionary for the annual review. However, the relative should be required to complete the CFS-64 form at each review.

- 15. What if you find out months later (after approving the payment) that there was a conviction which would have prohibited the payment?**

The payment should be stopped.

## **IX. Appeal Process**

### **1. If the relative is denied a payment, is there an appeal process?**

If the relative is denied a Kinship Care payment, the relative may appeal that decision to the Division of Hearings and Appeals in the Department of Administration (this was formerly the Office of Administrative Hearings in the Department of Health and Social Services).

### **2. How long after a negative payment decision does the relative have to appeal that decision?**

The relative must appeal the decision within 21 days after being notified that the payment will not be made.

### **3. Does the agency make payments to the relative pending the outcome of the appeal?**

This is a local decision. However, if the relative's appeal is successful, the Division of Hearings and Appeals may require the agency to provide payments back to the date that the completed application was received from the relative.

### **4. Will there be a state-issued form to use when denying a Kinship Care payment?**

The Department will provide a model notification letter which the county or tribe may use when notifying the relative that the payment has not been approved. This is Attachment #7 to the DCFS Numbered Memo.

### **5. Will the state provide a handout/form/notice that we can give to relatives regarding their right to appeal and the process to appeal?**

The model notification letter described in Question #4 immediately above will also provide the relative with information regarding his or her appeal rights and the process to be followed in requesting an appeal hearing.